

REMARKS

Applicant has corrected Examiner's claim objections in claims 8, 9 and 11-13 according to Examiner's suggestions. Applicant has amended the specification to clarify the claimed device. Support for the amendments can be found in Figs. 2 and 4 of the original drawings filed October 24, 2003.

LAW OF ANTICIPATION

Section 102 (e) provides:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent....

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described, in a single prior art reference. See: *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed Cir. 1987), *Structural Rubber Prods. CO. v. Park Rubber Co.*, 749 F.2d 707, 715, 223 USPQ 1264, 1270, (Fed. Cir. 1984), *Connell*, 722 F.2d at 1548, 220 USPQ at 198; *Kalman v. Kimberly-Clark Corp.*, 713 F2d 760, 771, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026, 104 S. Ct. 1284, 79 L. Ed.2d 687 (1984).

LAW OF OBVIOUSNESS

It is well known that most inventions are composed of elements that *per se* are old and well known. That however, does not make an invention "obvious" under 35 U.S.C. 103. The Examiner's attention is respectfully drawn to *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007).

When a work is available in one field, design incentives and other market forces can prompt variations of it, either in the same field or in another. If a person of ordinary skill in the art can implement a predictable variation, and would see the benefit of doing so, §103 likely bars its patentability. A court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions. ...But it need not seek out precise teachings directed to the challenged claim's specific matter, for a court can consider the inferences and creative step a person of ordinary skill in the art would employ. ...When there is a design need or market pressure to solve a problem and there are a finite number of identified predictable solutions, a person of ordinary skill in the art has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.

Examiner rejects claims 7-9, 11 and 13 as being anticipated by Brown (U.S. Pat. No. 6,016,101). Brown does not contain each and every element disclosed in the current application. Brown discloses a bicycle reflector containing multiple LED lights. The only source of light in the Brown device comes from the LED lights. The reflector containing the lights simply reflects light that shines upon it. Reflection is not an independent source of light. The bike light of the current application is comprised of a block containing an LED light. The block and the LED lights are two separate sources of light. The block disclosed in the current application is made of a phosphorescent material. Thus, the bike light of the current application absorbs light, then constantly emits the absorbed light. Claims 11 and 13 have been amended to clarify that the block is comprised of a phosphorescent material.

Further, Brown discloses multiple LED lights completely embedded in the length of the reflector (see Fig. 2). A bicycle fitted with the Brown device would only be visible to a motorist approaching the bicycle in a perpendicular direction. The device of the current application contains a single LED mounted in the width of the block such that a portion of the light protrudes from the block (see Figs. 2 and 4 of the original drawings filed October 24, 2003). Mounting the LED light in conformance with the current application allows the light to be seen from 360°. Thus, a bicycle fitted with the disclosed light would be visible to a driver approaching from any direction. Further, the disclosed LED mounting creates a circular pattern on the ground as the light rotates (see Figs. 2 and 3 of the original drawings filed October 24, 2003). The movement

of this pattern allows a person observing the light to judge the distance and speed of the bicycle to which the light is attached.

Finally, the Brown device attaches on either side of three spokes (see Figs. 1 and 2) toward the inner edge of the bicycle tire. The grooves on the Brown device are only large enough to capture a single spoke. Thus, it would be difficult, if not impossible, to attach the Brown device to a bicycle wheel where the spokes cross. Additionally, hardware 26 (Fig. 2) is required to attach the device to the spokes.

The device of the current application attaches on either side of a single set of spokes where the spokes cross. The spokes cross near the center of the bicycle wheel. Thus, the device of the current application attaches substantially closer to the center of the bicycle wheel than the device disclosed in Brown. The placement of the device where the spokes cross enhances the angle of the LED light therein, providing even more visibility to approaching motorists. Additionally, the device of the current application has a single groove running the length of the block. The U-shaped clip disclosed in Fig. 4 of the original drawing filed on October 24, 2003 allows multiple spokes to be captured. The U-shaped clip also contains wedge-shaped retainers that fasten into the groove of the block. The depth of the groove allows the clip to be self-securing such that no additional hardware is required to attach the device to the spokes. A further benefit of the U-shaped clip is that there is no small washer to lose.

For the reasons discussed above, Brown does not anticipate claims 11 and 13 of the current application. Because claims 7-9 depend from an allowable claim, they are also allowable at this time.

Examiner rejects claim 12 as being obvious in light of the combination of Brown and U.S. Pat. No. 6,186,635 to Peterson et al. Brown discloses a bicycle reflector containing multiple LED lights. Peterson discloses a bicycle light comprised of a phosphorescent material. The bike light of the current application is comprised of a phosphorescent block containing an LED light

The combination of an LED light with a phosphorescent material is unique. Brown discloses multiple LED lights completely embedded in the length of the reflector (see Fig. 2). A bicycle fitted with the Brown device would only be visible to a motorist approaching the bicycle in a perpendicular direction. The device of the current application contains a single LED mounted in the width of the block such that a portion of the light protrudes from the block (see Figs. 2 and 4 of the original drawings filed October 24, 2003). Mounting the LED light in conformance with the current application allows the light to be seen from 360°. Thus, a bicycle fitted with the disclosed light would be visible to a driver approaching from any direction. Further, the disclosed LED mounting creates a circular pattern on the ground as the light rotates (see Figs. 2 and 3 of the original drawings filed October 24, 2003). The movement of this pattern allows a person observing the light to judge the distance and speed of the bicycle to which the light is attached.

Peterson discloses a bike light comprised of a phosphorescent material. The Peterson device does not contain an LED light. As discussed above, the benefit of a phosphorescent material is that it is constantly emitting light it has absorbed. By combining an LED light with the phosphorescent material disclosed in Peterson, Applicant has provided a continual source of light for the disclosed block to absorb. By adding an LED light, Applicant has both created two independent sources of light for its bike light and created a constantly renewing light source for the block to absorb.

Moreover, neither Brown nor Peterson discloses the attachment mechanism of the current application. The Brown device attaches on either side of three spokes (see Figs. 1 and 2) toward the inner edge of the bicycle tire. The grooves on the Brown device are only large enough to capture a single spoke. Thus, it would be difficult, if not impossible, to attach the Brown device to a bicycle wheel where the spokes cross. Additionally, hardware 26 (Fig. 2) is required to attach the device to the spokes.

The Peterson device attaches to a single spoke using a clip 10 and a washer 6 (Fig. 2). The depth of the groove in the clip 10 in combination with the requirement of a washer 6 to

secure the device make it nearly impossible to capture more than one spoke in the clip 10. Thus, it would be difficult, if not impossible, to attach the Peterson device to a bicycle wheel where the spokes cross.

The device of the current application attaches on either side of a single set of spokes where the spokes cross. The spokes cross near the center of the bicycle wheel. Thus, the device of the current application attaches substantially closer to the center of the bicycle wheel than the device disclosed in either Brown or Peterson. The placement of the device where the spokes cross enhances the angle of the LED light therein, providing even more visibility to approaching motorists. Additionally, the device of the current application has a single groove running the length of the block. The U-shaped clip disclosed in Fig. 4 of the originals drawing filed on October 24, 2003 allows multiple spokes to be captured. The U-shaped clip also contains wedge-shaped retainers that fasten into the groove of the block. The depth of the groove allows the clip to be self-securing such that no additional hardware is required to attach the device to the spokes. A further benefit of the U-shaped clip is that there is no small washer to lose.

Applicant respectfully requests the Examiner to pass this application to allowance.

Respectfully submitted,



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